

New Enhanced Whistleblower Protections for Virginia Employees Now in Effect



ATTORNEYS

R. Douglas Taylor, Jr.

RELATED PRACTICE AREAS

Employee Benefits

Employment

RELATED INDUSTRIES

Government Contracting

Higher Education

Professional & Licensed Occupations

Retailers & Restaurateurs

Small, Emerging & Growing Businesses

R. Douglas Taylor, Jr.

July 21, 2020

In April 2020, Virginia Governor Ralph Northam signed into law nearly two dozen bills that provide significant new rights for Virginia employees, including enhanced employee whistleblower protections against retaliation for reporting suspected violations of state law or cooperating with law enforcement, as discussed below.

We have also published updates on other new Virginia employment laws that combat wage theft, prohibit non-compete covenants for low-wage workers and expand the scope of the ban on workplace discrimination. You can find those updates [here](#).

The new Whistleblower Law, Va. Code § 40.1-27.3, provides significantly expanded protections against retaliation for Virginia employees who, in good faith, report a violation of any federal or state law or regulation. Specifically, the Whistleblower Law prohibits an employer from discharging, disciplining, threatening, discriminating against, penalizing, or taking other retaliatory actions against an employee that affects the employee's compensation, terms, conditions, location, or privileges of employment, because the employee:

- reports a violation of any federal or state law or regulation to a supervisor or to any governmental body or law-enforcement official;
- is requested by a governmental body or law-enforcement official to participate in an investigation, hearing, or inquiry;
- refuses to engage in a criminal act that would subject the employee to criminal liability;
- refuses an employer's order to perform an action that violates any federal or state law or regulation and the employee informs the employer that the order is being refused for that reason; or
- provides information to or testifies before any governmental body or law-enforcement official conducting an investigation, hearing, or inquiry into any alleged violation by the employer of federal or state law or regulation.

The new law creates a private right of action for any employee who has experienced retaliation because of a protected whistleblower disclosure described above. That includes the right to bring a civil action in a court of competent jurisdiction within one year of the employer's prohibited retaliatory action.

Whistleblower retaliation damages are also defined by the new law. Specifically, a court may order as a remedy to the employee:

- an injunction to restrain the employer's continued violation of this section;

New Enhanced Whistleblower Protections for Virginia Employees Now in Effect (Cont.)

- the reinstatement of the employee to the same position held before the retaliatory action or to an equivalent position; and
- recompense for lost wages, benefits, and other remuneration, interest on such amounts, as well as the recovery of reasonable attorney fees and costs of litigation.

Additional Questions About the New Laws

We will be providing additional updates regarding the new Virginia employment laws. If you have questions about, or need assistance with, the new laws, please contact Doug Taylor at (703) 525-4000 or rdoug@beankinney.com.

This article is for informational purposes only and does not contain or convey legal advice. Consult a lawyer. Any views or opinions expressed herein are those of the authors and are not necessarily the views of any client.